

are not repayable on an amortizing basis. Financing to homeowners provided from HOPE 3 resources may not be assumed by subsequent homebuyers.

(2) With respect to a sale by an initial homeowner, the note must require payment upon sale by the initial homeowner, to the extent proceeds of the sale remain after paying off other outstanding debt secured by the property that was incurred for the purpose of acquisition or property improvement, paying any other amounts due in connection with the sale (such as closing costs and transfer taxes), and paying the family the amount of its equity in the property, computed in accordance with paragraph (c) of this section.

(3) With respect to a sale by an initial homeowner after the first six years after acquisition, through the 20th year, the amount payable under the note must be reduced by  $\frac{1}{168}$  of the original principal amount of the note for each full month of ownership by the family after the end of the sixth year. The homeowner may retain all other proceeds of the sale.

(4) Where a subsequent purchaser during the 20-year period, measured by the term of the initial promissory note, purchases the property for less than the then current fair market value (determined in accordance with the appraisal requirements in § 572.100(b)), the purchaser must also execute at closing a promissory note and mortgage (to be recorded as stated in paragraph (d)(1) of this section) payable to the recipient or its designee, for the amount of the discount (but no more than the amount payable at the time of the sale on the promissory note by the seller). The term of the promissory note must be the period remaining of the original 20-year period. The note must require payment upon sale by the subsequent homeowner, to the extent proceeds of the sale remain after covering costs of the sale, paying off other outstanding debt secured by the property that was incurred for the purpose of acquisition or property improvement, and paying any other amounts due in connection with the sale. The amount payable on the note must be reduced by a percentage of the original principal amount of the note for each full month of ownership by the subsequent homeowner.

The percentage must be computed by determining the percentage of the term of the promissory note the homeowner has owned the property. The remainder may be retained by the subsequent homeowner selling the property.

(e) *Additional restrictions.* Notwithstanding paragraph (a) of this section, an applicant may propose in its application, and HUD may approve, additional reasonable restrictions on the resale of units under the program. HUD does not encourage additional restrictions, but HUD approval will be based on a review of the individual circumstances. However, HUD will not approve restrictions that it determines will substantially limit the ability of homeowners to realize financial appreciation in the value of their homes.

[58 FR 36526, July 7, 1993, as amended at 61 FR 48798, Sept. 16, 1996]

**§ 572.135 Use of proceeds from sales to eligible families, resale proceeds, and program income.**

(a) *Proceeds from sales.* The recipient or another entity approved by HUD must use the proceeds, if any, from the initial sale for costs of their HOPE 3 program, including additional homeownership opportunities eligible under the HOPE 3 program, improvements to properties under the HOPE 3 program, business opportunities for low-income families participating in the HOPE 3 program, supportive services related to the HOPE 3 program, and other activities approved by HUD, either as part of the approved application or later on request. Such proceeds include the full consideration received by the recipient or other entity for the property, including principal and interest on purchase money loans from HOPE 3 funds or match.

(b) *Resale proceeds.* Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under § 572.130(c), (d), and (e) must be paid to the recipient, or another entity approved by HUD, for use for additional homeownership opportunities eligible under the HOPE 3 program, improvements to properties under the HOPE 3 program, business opportunities for homeowners under the HOPE 3 program, supportive services related to the HOPE 3 program,

and other activities approved by HUD in the approved homeownership program or later on request. The remaining 50 percent must be collected by the recipient and returned to HUD within 15 days of the sale for use under the HOPE 3 program, subject to any limitations contained in appropriations Acts.

(c) *Requirements for use of sale and resale proceeds.* Sale and resale proceeds must be committed for approved activities within one year of receipt. All sale and resale proceeds must be accounted for by the recipient, and 50 percent of all resale proceeds received by the recipient must be returned to HUD, as described in paragraph (b) of this section. Recipients may use up to 15 percent of their sale and resale proceeds for administrative expenses to expand their HOPE 3 program and provide additional homeownership opportunities. Recipients must retain records on the use of these funds to the same level of detail as required of grant funds under the HOPE 3 system or whatever records HUD otherwise prescribes. The recipient, and any other entity approved by HUD to administer the sale and resale proceeds, remain responsible to comply with the requirements of this part, or such other requirements as HUD may prescribe (consistent with then applicable law) in closeout procedures or agreements.

(d) *Program income.* Any program income, as defined in § 572.5, received by the recipient may be added to the funds committed to the grant agreement by HUD and the recipient, in accordance with the requirements of parts 84 and 85 of this title, as applicable.

[58 FR 36526, July 7, 1993, as amended at 60 FR 36018, July 12, 1995; 62 FR 34145, June 24, 1997]

#### **§ 572.140 Third party rights.**

The rights of third parties are governed by 42 U.S.C. 12895(d) and apply to the requirements of this part.

[61 FR 48798, Sept. 16, 1996]

#### **§ 572.145 Displacement prohibited; protection of nonpurchasing residents.**

(a) *Displacement prohibited.* (1) No person may be displaced from his or her

dwelling as a direct result of a homeownership program under this part. This does not preclude terminations of tenancy for violation of the terms of occupancy of the unit. Each resident of an eligible property on the date the application for an implementation grant was submitted to HUD and each resident at the time the property is selected must be given an opportunity to become a homeowner under this program if the resident qualifies as an eligible family and meets other program requirements. If the resident does not qualify or does not elect to move, the property is not eligible. The protections provided to residents under this section do not apply to the former owner of the property if the property is acquired from him or her as a result of a tax or mortgage foreclosure.

(2) In addition to any applicable sanctions under the grant agreement, a violation of paragraph (a)(1) of this section may trigger a requirement to provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and government-wide implementing regulations at 49 CFR part 24.

(b) *Relocation assistance for residents who elect to move.* The recipient must offer each nonpurchasing resident who elects to move relocation assistance in accordance with the approved homeownership program. The program must provide, at least, the following assistance:

(1) Advisory services, including timely information, counseling (including the provision of information on a resident's rights under the Fair Housing Act), and referrals to suitable, affordable, decent, safe, and sanitary alternative housing;

(2) Payment for actual, reasonable moving expenses; and

(3) Financial assistance sufficient to permit relocation to suitable, affordable, decent, safe, and sanitary housing. This requirement is met if the family is provided the opportunity to relocate to suitable, decent, safe, and sanitary housing for which the monthly rent and estimated average utility costs do not exceed the greater of 30 percent of the person's income or the